

Application Serial No. 09/917,937
Attorney Docket No. 110275.120-US1

REMARKS

In the Office Action, the Examiner noted that claims 1-22 are pending in the application, and that claims 1-22 are rejected. In addition, the Examiner noted that claims 9 and 11 (presumably original claim 11 as submitted even though no claim 10 exists) are objected, but would be allowable if re-written in independent form. By this Amendment, claims 1 and 18 have been amended, claim 23 has been added, and claim 10 has been cancelled. Therefore, claims 1-9 and 11-23 are pending in the application. The Examiner's rejections are traversed below.

Claim Objections

Claims 1-22 are objected due to informalities. Missing claim 10 has been cancelled to simplify the amendments. Accordingly, Applicant respectfully submits that the objection to the claims be withdrawn, and such action is earnestly requested.

Prior art Rejections

Claims 1-8 and 12-22 are rejected as being unpatentable under 35 U.S.C. Section 103 over U.S. Patent 6,694,366 to Gernert et al. Applicant respectfully traverses this rejection.

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Specifically, the Examiner contends that Gernert et al. shows the feature of a first standard format for the data field, and a second standard format for the data. Applicant does not agree with the Examiner. Gernert et al. relates to a mobile device designed to accept bar code symbols, and then transmit the data to a central computer. Without conceding that Gernert et al. shows any of the features of the presently claimed invention, Gernert et al. does not disclose, for example, a first standard format for the at least one predefined data field to be entered by the user. Gernert et al. further does not disclose other claimed features of the present invention as well, as described below.

In addition, the Examiner takes "Official Notice" regarding the "concept" of transmitting data representative of a bill of lading. However, Applicant is not claiming the "concept" alone, and is specifically claiming the implementation of the present invention, including, for example, the claimed specific combination of data fields. Specifically, the present invention, in at least one embodiment, claims the combination of the method/system and the data fields "bill of lading, weight, number of pieces shipped, trailer being dropped off," and the like.

Accordingly, Applicant disagrees with the Examiner's statement that these are well-known when combined. Applicant requests the Examiner to provide an affidavit under 37 C.F.R. 1.104(d)(2) detailing the Official Notice, or provide a prior art reference in support of the Official Notice. In the absence of either, Applicant requests the Examiner to withdraw the rejection.

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In addition, the expedite prosecution, Applicant has amended claims 1 and 18 to further emphasize features of the invention that Applicant believes provides the scope of protection that Applicant desires.

For example, amended claim 1 recites the combination of features, including “a wireless communications system for use in the transportation industry, comprising: at least one data transmission device comprising a wireless messaging device having a first identifier associated with said at least one network, and including a user interface providing a user functionality to enter into said at least one data transmission device at least one predefined data field and data associated with the at least predefined data field.” Claim 1 also recites that “the at least one predefined data field and the data associated therewith formatted in accordance with a standard format including at least one first standard format for the at least one predefined data field and at least one second standard format for the data, and the data including at least one of economic and logistical data relating to at least one of shipment, delivery and receipt of shipped goods.” Claim 1 also recites, in combination, “at least one remote computing device, operatively connectable to said at least one data transmission device, said at least one remote computing device comprising an e-mail server storing messages for at least one e-mail account, each e-mail account having a second identifier associated therewith, wherein the at least one data transmission device and the at least one remote computing device transmit signals to each other via said networks in accordance with predetermined criteria including respective identifiers associated with each of the at least one data transmission device and the at least one remote computing device, and receiving each of the at least one predefined data

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field and the data transmitted by said at least one data transmission device.” Claim 1 also recited in combination “processing the at least one first standard format for the at least one predefined data field and the at least one second standard format for the data responsive to the standard format using at least one application program stored on said at least one remote computing device configured to receive the standard format comprising the at least one first standard format for the at least one predefined data field and the at least one second standard format for the data.” Claim 1 further recites “at least one network operatively connectable to each of said at least one data transmission device and each of said at least one remote computing device, and transmitting the at least one first standard format for the at least one predefined data field and the at least one second standard format for the data responsive to the standard format to said at least one remote computing device and receiving the at least one first standard format for the at least one predefined data field and the at least one second standard format for the data responsive to the standard format from said at least one data transmission device.”

Applicant respectfully submits that combination of elements, when interpreted as a whole, patentably distinguishes over Gernert et al. Withdrawal of the rejection of claim 1 is respectfully requested.

In addition, independent claim 18, and dependent claims 2-9, 11-17 and 19-22 are also asserted to be patentably distinguishable over Gernert et al. when each claim is interpreted as a whole. Withdrawal of the rejection for these claims as well is respectfully requested.

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Objection to Claims 9 and 11

Claims 9 and 11 are objected as being allowable, but dependent upon a rejected base claim. Applicant has incorporated the limitations of claim 9 in independent claim 1, and cancelled claim 9 without prejudice or disclaimer. Applicant has not, however, incorporated the limitations of the intervening claims because the Examiner contends the intervening claims are not patentably distinguishable over Gernert et al. Withdrawal of this objection is respectfully requested.

CONCLUSION

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, Applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims,

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when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicant reserves the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents.

Further, Applicant hereby retracts any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicant

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specifically retracts statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.

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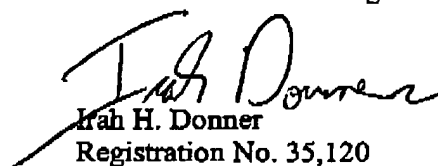
AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

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